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Attorneys for Defendants

Akanoc Solutions, Inc.,

Managed Solutions Group, Inc.

and Steve Chen

**UNITED STATES DISTRICT COURT****NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

LOUIS VUITTON MALLETTIER, S.A.,

Plaintiff,

vs.

AKANOC SOLUTIONS, INC., MANAGED  
SOLUTIONS GROUP, INC., STEVEN CHEN  
AND DOES 1 THROUGH 10, INCLUSIVE,

Defendants.

Case No.: C 07-3952 JW (HRL)

**SUPPLEMENTAL JURY  
INSTRUCTION NO. 13**

**JURY INSTRUCTION No. \_\_\_\_**

**CONTRIBUTORY TRADEMARK INFRINGEMENT –  
LIKELIHOOD OF CONFUSION**

In considering whether a third party's use of the plaintiff's trademark(s) is likely to cause confusion about the source of the goods, you should consider the relative cost of the plaintiff's goods. If they are relatively expensive, this factor weighs heavily against finding a likelihood of confusion.

1 *Brookfield Communications, Inc. v. West Coast Entertainment Corp.*, 174 F.3d 1036, 1060 (9th  
2 Cir.1999) ("**Likelihood of confusion is determined on the basis of a "reasonably prudent**  
3 **consumer."** What is expected of this reasonably prudent consumer depends on the circumstances.  
4 **We expect him to be more discerning-and less easily confused-when he is purchasing expensive**  
5 **items**, see, e.g., *Official Airline Guides*, 6 F.3d at 1393 (noting that confusion was unlikely among  
advertisers when the products in question cost from \$2,400 to \$16,000) . . . [W]hen dealing with  
inexpensive products, customers are likely to exercise less care, thus making confusion more  
likely.")

6 *E. & J. Gallo Winery v. Gallo Cattle Co.*, 967 F.2d 1280, 1293 (9th Cir. 1992) ("When goods are  
7 **expensive**, it is assumed that buyers will exercise greater care in their purchases.")

8 *Vuitton Et Fils S.A. v. J. Young Enterprises, Inc.*, 644 F.2d 769, 771-772 (9th Cir. 1981) ("Vuitton, a  
9 French company, is owned and controlled by members of the Vuitton family. It is engaged in the  
sale and distribution of **expensive** luggage, handbags, and related items.")

10 *Self-Insurance Institute of America, Inc. v. Software and Information Industry Ass'n*, 208 F.Supp.2d  
11 1058 (C.D.Cal.2000), *affd.* ("Based on the relatively high cost, the Court finds that consumers  
12 seeking association services will be very discerning and not easily confused. . . . The Court finds that  
13 **consumers seeking association services are highly discerning and not easily confused. This**  
14 **factor weighs heavily against finding a likelihood of confusion.**")